

CIVIL SERVICE COMMISSION MINUTES

December 17, 2003

A regular meeting of the Civil Service Commission was held at 2:30 p.m., in Room 358 at the County Administration Building, 1600 Pacific Highway, San Diego, California.

Present were:

Barry I. Newman
Sigrid Pate
Marc Sandstrom
A.Y. Casillas

Absent was:

Gordon Austin

Comprising a quorum of the Commission

Support Staff Present:

Larry Cook, Executive Officer
Ralph Shadwell, Senior Deputy County Counsel

Selinda Hurtado-Miller, reporting

Approved
Civil Service Commission
January 21, 2004

**CIVIL SERVICE COMMISSION MINUTES
DECEMBER 17, 2003**

2:00 p.m. CLOSED SESSION: Discussion of Personnel Matters and Pending Litigation

2:30 p.m. OPEN SESSION: Room 358, 1600 Pacific Highway, San Diego, California 92101

<u>Discussion Items</u>	<u>Continued</u>	<u>Referred</u>	<u>Withdrawn</u>
6	9	8	

COMMENTS: Motion by Casillas to approve all items not held for discussion; seconded by Pate. Carried.

**CLOSED SESSION AGENDA
County Administration Center, Room 458
(Notice pursuant to Government Code Sec. 54954.2)
Members of the Public may be present at this
location to hear the announcement of the
Closed Session Agenda**

A. Commissioner Pate: Wendell Prude, SEIU Local 2028, on behalf of **James Brock**, former Mail Clerk Driver, appealing an Order of Removal and Charges from the Probation Department.

**OPEN SESSION AGENDA
County Administration Center, Room 358**

NOTE: Five total minutes will be allocated for input on Agenda items unless additional time is requested at the outset and the President of the Commission approves it.

MINUTES

1. Approval of the Minutes of the regular meeting of November 19, 2003.

Approved.

CONFIRMATION OF ASSIGNMENTS

2. Commissioner Newman: Richard Pinckard, Esq., on behalf of **2003/007***, Deputy Sheriff, appealing the Citizens' Law Enforcement Review Board's sustained finding of misconduct.

Confirmed.

3. Commissioner Casillas: Brian Polejes, Senior Field Representative, S.E.I.U. Local 535, on behalf of **Luis Estrada**, former Human Services Specialist, appealing an Order of Removal from the Health and Human Services Agency.

Confirmed.

REASSIGNMENTS

4. Commissioner Sandstrom: Veronica M. Aguilar, Esq. on behalf of **Robert Aebi**, former Stock Clerk, appealing an Order of Termination and Charges from the Sheriff's Department. Commissioner Newman was originally assigned.

Confirmed.

5. Commissioner Newman: **Richard Gross**, Intermediate Clerk Typist, appealing an Order of Demotion and Charges (from Accounting Technician) from the Office of Emergency Services. Commissioner Austin originally assigned.

Confirmed.

DISCIPLINES

Findings

6. Commissioner Pate: Wendell Prude, SEIU Local 2028, on behalf of **James Brock**, former Mail Clerk Driver, appealing an Order of Removal and Charges from the Probation Department.

FINDINGS AND RECOMMENDATIONS:

Employee was charged with Cause 1 - Conduct unbecoming an employee of the County of San Diego (inordinate amount of personal calls on County-issued cell phone; failure to immediately report to the Chief Probation Officer, through the chain of command, an arrest for a misdemeanor); Cause 2 - Failure of good behavior; Cause 3 - Immorality; Cause 4 - Acts incompatible with or inimical to the public service; Cause 5 - Being convicted of a criminal offense involving moral turpitude; and Cause 6 - Dishonesty.

SYNOPSIS: Employee engaged in conduct meriting severe discipline, although not as severe as charged by the Department. Although most of the charges in the Order of Removal were proven, there were mitigating factors that caused the hearing officer to recommend that the Order of Removal be modified to a ninety (90) calendar-day suspension.

It is therefore recommended that the Order of Removal and Charges be reduced to a suspension of ninety (90) calendar days (the maximum suspension permitted in Civil Service Rule VII); that Employee be awarded back pay, benefits, and interest from the date of removal to the date of the Commission's decision, minus any wages he received from outside employment and minus the suspension duration referred to above; that the Commission read and file this report; and that the proposed decision shall become effective upon the date of approval by the Civil Service Commission.

Motion by Pate to approve the Findings and Recommendations; seconded by Casillas. Carried.

AYES:	Pate, Newman, Casillas
NOES:	Sandstrom (favored removal)
ABSTENTIONS:	None
ABSENT:	Austin

SELECTION PROCESS

Complaints

7. **Herbert E. Castro**, appealing the Department of Human Resources' (DHR) determination that he is ineligible to compete in the selection process for the classification of Correctional Deputy Probation Officer I.

RECOMMENDATION: Hold in abeyance pending the outcome of the discrimination action listed below. (See Item No. 8 below.)

Staff recommendation approved.

DISCRIMINATION

Complaints

8. **Herbert E. Castro**, Correctional Deputy Probation Officer applicant, alleging medical discrimination by the Department of Human Resources.

RECOMMENDATION: Assign an Investigating Officer and concurrently appoint the Office of Internal Affairs to conduct an investigation and report back. (See Item No. 7 above.)

Staff recommendation approved. Commissioner Pate assigned.

INVESTIGATIONS

Requests

9. **Martin Brauer, Antonio Loo and John Peterson**, Facilities Technicians, HHSA, requesting a Rule XI investigation into their allegations of an ongoing pay inequity in their classification as compared to the Building Maintenance Engineer class. Also, requesting a Rule XI investigation into the personnel practices of the Department of Human Resources (DHR) and the HHSA related to their handling of Messrs. Brauer, Loo and Peterson's request to remedy the alleged pay inequity.

RECOMMENDATION: Continue to the next meeting pending input from the departments.

Staff recommendation approved. Continued.

OTHER MATTERS

Extension of Temporary Appointments

10. Department of Agriculture Weights & Measures

1 Insect Detection Specialist I (Perry Skyler)

11. Health and Human Services Agency

1 Junior Public Health Microbiologist (Amy Johnson)

RECOMMENDATION: Ratify Item Nos. 10 & 11.

Item Nos. 10 & 11 ratified.

12. Public Input.

NEXT MEETING OF THE CIVIL SERVICE COMMISSION WILL BE JANUARY 21, 2004.

*The identity of the peace officer is held confidential per Penal Code Section 832.7 (San Diego Police Officers' Association, et al. v. City of San Diego Civil Service Commission).